

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CATHERINE MCKOY, MARKUS FRAZIER and
LYNN CHADWICK individually and on behalf of
all others similarly situated,

Plaintiffs,

Case No. 18-cv-009936 (LGS)(SLC)

- against -

THE TRUMP CORPORATION and DONALD
J. TRUMP, in his personal capacity,

Defendants.
-----X

PETER T. SHAPIRO, an attorney duly admitted to practice before this Court, hereby
declares subject to the penalties of perjury:

1. I am a partner of Lewis Brisbois Bisgaard & Smith LLP, attorneys for defendants. I
submit this declaration in support of defendants' motion for an order pursuant to Rule 56, F. R. Civ.
P., dismissing the Second Amended Complaint because Plaintiff cannot raise a genuine issue of
material fact as to any of her claims for relief.

2. Also submitted herewith are movants' Rule 56.1 Statement and Memorandum of
Law.

3. Pertinent excerpts from the transcript of Plaintiff Frazier's deposition in this case are
annexed hereto as Exhibit A.

4. Pertinent excerpts from the transcript of Plaintiff McKoy's deposition in this case are
annexed hereto as Exhibit B.

5. Pertinent excerpts from the transcript of Plaintiff Chadwick's deposition in this case
are annexed hereto as Exhibit C.

6. Excerpts from the transcript of the deposition of non-party David Merriman are annexed hereto as Exhibit D.

7. Excerpts from the transcript of the deposition of non-party Robert Stevanovski are annexed hereto as Exhibit E.

8. Excerpts from the transcript of Donald J. Trump are annexed as Exhibit F.

9. Exhibit G hereto is [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Exhibit H hereto is [REDACTED]

[REDACTED]

[REDACTED]

11. Documents referenced in Defendants' memorandum of law and Rule 56.1 statement from prior submissions are as follows:

A. Excerpts from the transcript of the deposition of plaintiff Chadwick are Exhibit A to my declaration in opposition to Plaintiffs' class certification motion (docket no. 552 and 554) (the "Shapiro Decl.").

B. Excerpts from Plaintiff Frazier's deposition are Shapiro Decl. Exh. B.

C. Excerpts from Plaintiff McKoy's deposition are Shapiro Decl. Exh. C.

D. Excerpts from the deposition of Robert Merriman are Shapiro Decl. Exh. F

E. Excerpts from the transcript of the deposition of Donald J. Trump are Shapiro Decl. Exh G.

F. The declaration of Angelique Davis is Shapiro Decl. Exh. K.

G. The declaration of Al Plumb is Shapiro Decl. Exh. L.

- H. The declaration of John Barringer is Shapiro Decl. Exh. M
- I. The declaration of Devonne Richardson is Shapiro Decl Exh. N.
- J. Excerpts from Plaintiff McKoy's Responses to Requests for Admissions are Shapiro Decl. Exh. O.
- K. Excerpts from Plaintiff Chadwick's Responses to Requests for Admissions are Shapiro Decl. Exh. P.
- L. Excerpts from Plaintiff Frazier's Responses to Requests for Admissions are Shapiro Decl. Exh. Q.
- M. Excerpts from Robert Peterson's expert report are Shapiro Decl. Exh. R.
- N. Excerpts from Isabella Cunningham's expert report are Shapiro Decl. Exh. S.
- O. Excerpts from Joseph Hair's expert report are Shapiro Decl. Exh. S.
- P. Joseph Hair's declaration is Shapiro Decl. Exh. T. The full expert reports for Defendants are being or have been sent to Chambers as directed.

12. Defendants' motion papers also make reference to documents previously filed by Plaintiffs in support of the class certification motion which were presented via the declaration of Matthew Brinkerhoff, Esq. (docket no. 534) (the "Brinkerhoff Decl.").

- A. Excerpts from the transcript of the deposition of David Merriman are annexed thereto as Exhibit 1. The excerpts are in addition to those referenced above.
- B. Exhibits 5 through 12 are agreements between Donald J. Trump and AC N, Inc. and related documents concerning President Trump acting as a spokesperson for ACN and the termination of that relationship.
- C. Exhibit 13 consists of excerpts from Stacie Bosley's expert report.
- D. Exhibit 15 is an ACN Opportunity Disc version 4.0.

- E. Exhibit 16 is an excerpt from Success from Home magazine from August 2011.
- F. Exhibit 17 is an ACN Opportunity Disc version 5.3.
- G. Exhibit 18 is an ACN Opportunity Disc version 5.5.
- H. Exhibit 19 is an ACN Opportunity Disc version 5.6.
- I. Exhibit 20 is an ACN Opportunity Disc version 6.1.
- J. Exhibit 21 is an ACN Opportunity Disc version 7.0.
- K. Exhibit 22 is an ACN Opportunity Disc version 9.2.
- L. Exhibit 23 consists of excerpts from Kevin Keller's expert report.
- M. Exhibits 24 and 26 are ACN promotional videos featuring Donald J. Trump.
- N. Exhibit 28 is ACN's 2012 policies and procedures.
- O. Exhibit 30 consists of excerpts from Success from Home magazine from September 2014.
- P. Exhibit 31 consists of excerpts from Success magazine from August/September 2008.
- Q. Exhibit 32 consists of excerpts from Success from Home magazine from August 2010.
- R. Exhibit 36 is the March 2009 episode of the Celebrity Apprentice.
- S. Exhibit 37 is the March 2011 episode of the Celebrity Apprentice.

WHEREFORE, it is respectfully submitted that the Court should grant this motion and dismiss this action with prejudice and award costs and fees to movants.

Dated: New York, New York
May 26, 2023

/s/ Peter T. Shapiro
Peter T. Shapiro

CERTIFICATE OF SERVICE

Peter T. Shapiro, an attorney duly admitted to practice before this Court, certifies that on May 26, 2023 he caused to be served and filed via ECF the Notice of Motion, supporting declarations, memorandum of law and Rule 56.1 statement.

_____/s/ Peter T. Shapiro

Peter T. Shapiro